

# 2012 SUPREME COURT ELECTION PUBLIC FINANCING REPORTING REQUIREMENTS

(REVISED 8/10/11)

## Who must report?

- All candidates for the 2012 primary and general election for the two open Supreme Court of Appeals seats, including those candidates who do not apply for or accept the public financing option.
- All persons making \$1,000 in expenditures supporting or opposing any candidate for either of the two open Supreme Court of Appeals seats.
- The rest of this explanation will be divide the reporting and record keeping requirements into three types of affected individuals:
  - Candidates who seek public funding;
  - Candidates who do not seek public funding;
  - Persons, or organizations, making independent expenditures on the Supreme Court election.

## CANDIDATES SEEKING PUBLIC FUNDING

### Records and Reports during the pre-candidacy (exploratory) period.

- Before accepting or expending monies prior to officially becoming a candidate, the candidate must file pre-candidacy paperwork with the Secretary of State [§3-8-5e].
- The period for pre-candidacy is now open and remains open until the second Monday in January, 2012, [1/9/2012] which is the beginning of the candidacy filing period.

**During the pre-candidacy period, all candidates with financial transactions of \$500, must file annual reports within six days of the last Saturday of March each year.**

- Candidates thinking of applying for public financing must produce receipts in triplicate [forms provided by Secretary of State] for each exploratory contribution.
- One copy of the receipt is kept by the candidate, one is given to the contributor, one is filed with the Secretary of State at the first of each month.
- Receipt information:
  - Contributions up to \$250 -
    - Contributor's name;
    - Contribution amount;
    - 3-8-5a requirements
      - Name residence telephone number of candidate???
      - Membership organization contribution disclosure??

# 2012 SUPREME COURT ELECTION PUBLIC FINANCING REPORTING REQUIREMENTS

(REVISED 8/10/11)

- Contributions of \$250 or more –
    - Contributor's name;
    - Residence;
    - Mailing address
    - Business affiliation
    - occupation
  - Exploratory contributions have certain restrictions:
    - No more than \$1,000 from any individual;
    - No more than \$1,000 from the candidates own funds;
    - A maximum of \$20,000 may be raised and expended;
      - Excess of \$20,000 is paid to the Public Financing Fund.
- **Exploratory contributions and expenses and receipts must be reported to Secretary of State the first of each month**
- By electronic filing
  - SEC may grant exemption from electronic filing for hardship cases [3-8-5b(c)]

## Records and Reports during the qualifying period.

- The Qualifying Period begins 9/1/2011 and ends 1/28/2012 for candidates seeking nomination in the primary.
- For candidates seeking nomination by petitions, the Qualifying Period is from 6/1/2012 until 10/1/2012.
- Candidates seeking to qualify for receipt of Public Financing Funds must first file a **DECLARATION OF INTENT** with the Secretary of State.
- Candidates seeking to qualify for Public Financing Funds must obtain, during the Qualifying Period:
  - At least 500 individual contributions;
  - All must be from registered W.Va. voters;
  - No contribution may be more than \$100;
  - At least 10% of all the contributors must reside in each of W.Va.'s Congressional Districts;
  - Contributions must total no less than \$35,000 but no more than \$50,000;
    - Excess of \$50,000 is paid to the Public Financing Fund.
  - Candidates and family members may each make one contribution;
  - Candidates may not loan money to make contributions;
  - Contributions obtained before filing the DECLARATION OF INTENT do not qualify.
- Receipts in triplicate must be given. One copy is retained by the candidate, one copy is given to the contributor, and one copy is submitted to the Secretary of State at the appropriate time.

# 2012 SUPREME COURT ELECTION PUBLIC FINANCING REPORTING REQUIREMENTS

(REVISED 8/10/11)

- Receipts must provide:
  - Printed name of candidate;
  - Signature of collector;
  - Statement above contributor's signature that:
    - Contributor understands purpose is to qualify candidate for public financing;
    - Contribution was made without coercion;
    - Contributor has not been reimbursed or promised anything of value by any other person.
  - Receipts of \$25 or more must provide:
    - Signature of contributor;
    - Printed name of contributor;
    - Street address and zip code;
    - Telephone number;
    - Occupation;
    - Name of employer.
  - Receipts of up to \$25 must provide:
    - Signature of contributor;
    - Printed name;
    - Street address and zip code.

• **Receipts, contributions, and expenses must be filed electronically with Secretary of State at the first of each month.**

- SEC may grant exemption from electronic filing [3-8-5b(c)]

• **All contributions, expenditures and receipts must be filed with the Secretary of State no later than 1/30/2012. This is the final report after qualifying has been concluded following those reports filed on the first of each month during the qualifying.**

## Records and Reports during the Primary Election Period

- Upon satisfying the 500 contributions and \$35,000 minimum requirements, the candidate must **APPLY** to the State Election Commission for public funding.
- If the SEC determines that the candidate has met the qualification requirements, a check is issued to the candidate.
- During the Primary Period the candidate may not accept additional contributions.
- The candidate may not expend more than the public financing amount and any unobligated exploratory and qualifying amounts.
- The Primary Period starts 1/29/2012 and continues until the primary election, 5/8/2012.

# 2012 SUPREME COURT ELECTION PUBLIC FINANCING REPORTING REQUIREMENTS

(REVISED 8/10/11)

- During the Primary Period, the candidate must make the campaign finance reports required by §3-8-5(b). The reporting schedule, and the information required, is provided in the chart below.

Report	Due	Date	Information Required
Primary First	6 business days after 1 <sup>st</sup> Sat. in March	3/12/12	All expenditures, once \$500 expended, before last Saturday in March
Pre-Primary	4 business days after 15 <sup>th</sup> before primary	4/30/12	All expenditures after last Saturday in March and up to 15 days before primary
Post-Primary	20 business days after 13 <sup>th</sup> day after primary	6/15/12	All expenditures after 15 days before primary an up to 13 days after primary.

## Records and Reports during the General Election Period

- Losing candidates must return any unspent public financing, qualifying, and exploratory funds to the Public Financing Fund within 48 hours of the date on which the candidate loses the primary election.
- During the General Election Period the candidate may not accept additional contributions.
- The candidate may not expend more than the public financing amount and any unobligated amounts at the close of the primary period.
- The General Election Period starts the day after the primary election and continues until the day of the general election [5/9/12 – 11/6/12].
- All unobligated amounts must be returned to the Fund within 5 business days of the general election.
- During the Primary Period, the candidate must make the campaign finance reports required by §3-8-5(b). The reporting schedule, and the information required, is provided in the chart below.

Report	Due	Date	Information Required
General First	4 business days the 43 <sup>rd</sup> day before the gen.	10/1/12	All expenditures, once \$500 expended, before the 43 <sup>rd</sup> day before the primary
Pre-General	4 business days after 15 <sup>th</sup> before general	10/29/12	All expenditures subsequent to the previous report and up to 15 days before general
Post-General	20 business days after 13 <sup>th</sup> day after primary	12/17/12	All expenditures after 15 days before general an up to 13 days after general.

# 2012 SUPREME COURT ELECTION PUBLIC FINANCING REPORTING REQUIREMENTS

(REVISED 8/10/11)

## CANDIDATES NOT PARTICIPATING IN PUBLIC FUNDING

- Candidates who do not apply for or receive public financing have record keeping and reporting obligations.
- ~~Amounts of funding available to participating candidates are determined by amounts of expenditures of non-participating candidates and by persons making independent expenditures on the race.~~

**THIS REQUIREMENT RULED UNCONSTITUTIONAL BY  
US SUPREME COURT AND WV ATTORNEY GENERAL**

- **Non-participating candidates must meet all reporting requirements of §3-8-5 as listed in the following chart:**

Report	Due	Date	Information Required
Primary First	6 business days after 1 <sup>st</sup> Sat. in March	3/12/12	All transaction including expenditures, contributions, and loans, once \$500 expended, before last Saturday in March
Pre-Primary	4 business days after 15 <sup>th</sup> before primary	4/30/12	All transactions after last Saturday in March and up to 15 days before primary
Post-Primary	20 business days after 13 <sup>th</sup> day after primary	6/15/12	All transactions after 15 days before primary an up to 13 days after primary.
General First	4 business days the 43 <sup>rd</sup> day before the gen.	10/1/12	All transactions, once \$500 expended, before the 43 <sup>rd</sup> day before the primary
Pre-General	4 business days after 15 <sup>th</sup> before general	10/29/12	All transactions subsequent to the previous report and up to 15 days before general
Post-General	20 business days after 13 <sup>th</sup> day after primary	12/17/12	All transactions after 15 days before general an up to 13 days after general.

- **In addition to the §3-8-5 reporting requirements, non-participating candidates must also report according to the following table:**

# 2012 SUPREME COURT ELECTION PUBLIC FINANCING REPORTING REQUIREMENTS

(REVISED 8/10/11)

Report	Date	Information Required
1 <sup>st</sup> Saturday in April	4/7/12	All expenditures, exceeding initial funding available to participating candidate, made subsequent to Primary First report
48 hours after expenditures made prior to 15 <sup>th</sup> day before primary or general election	varies	All expenditures subsequent to the previous report and up to 15 days before primary or general election
24 hours after expenditures made during last 15 days before primary or general	varies	All expenditures after 15 days before general an up to 13 days after general.
Within 6 days of 1 <sup>st</sup> Sat. in July	7/13/12	All expenditures, exceeding initial funding available to participating candidate, made since primary and prior to July 1.
1 <sup>st</sup> Saturday in October	10/6/12	All expenditures made subsequent to those reported in General First report due 10/1/12

**PRECEDING REPORTING REQUIREMENTS RULED  
UNCONSTITUTIONAL BY US SUPREME COURT AND WV  
ATTORNEY GENERAL**

## PERSONS MAKING INDEPENDENT EXPENDITURES INVOLVING SUPREME COURT ELECIION

- Independent expenditures are defined by law as expenditures expressly advocating the election or defeat of a clearly identified candidate and which are not made in concert or cooperation with, or at the suggestion of, a candidate, his or her authorized committee, or his or her agents, or a political party committee.
- ~~Amounts of funding available to participating candidates are determined by amounts of expenditures of non-participating candidates and by persons making independent expenditures on the race.~~

**THIS LAW RULED UNCONSTITUTIONAL BY US  
SUPREME COURT AND WV ATTORNEY GENERAL**

- Persons responsible for independent expenditures must report to the SEC those expenditures in excess of \$1,000 (in the aggregate).
- **The schedule for reporting is provided in the following table:**

# 2012 SUPREME COURT ELECTION PUBLIC FINANCING REPORTING REQUIREMENTS

(REVISED 8/10/11)

15 days before primary or general	48 hours of expenditure	Expenditures advocating election or defeat, or nomination, of participating candidate or non-participating candidate who is opposed by participating candidate.
Within 15 days before primary or general	24 hours of expenditure	Expenditures advocating election or defeat, or nomination, of participating candidate or non-participating candidate who is opposed by participating candidate. <b>Must be faxed or hand-delivered.</b>

- The 24 hour report must be submitted by facsimile, or hand delivery, or other means to insure receipt by the State Election Commission within 24 hours of expenditure.